

S.B.CRIMINAL MISC. PETITION NO.1557/2006
(Abdul Zabbar & Ors. Vs. State of Raj. & Ors.)

Date of order : : 10.04.2007

HON'BLE MR. KRISHAN KUMAR ACHARYA, J.

Mr.S.D.Goswami, for the petitioners.
Mr.Ashok Upadhyay, PP for the State.
Mr.Pankaj Bohra for Mr.Ravi Bhansali, for the respondent.

Heard learned counsel for the parties. One complaint was filed by the complainant Kedar Nath Chamadia which was sent to Police Station, Tibbi, Distt. Hanumangarh. The matter was investigated. Thereafter, the police has filed FR in this case. They have reached to the conclusion that a false report has been lodged. No occurrence took place as shown in the complaint. Thereafter, protest petition was filed by the complainant. No further evidence was recorded and after hearing both the parties, learned Magistrate has taken cognizance against the petitioners under Sections 447, 353 and 504 IPC vide order dated 19.3.2004. Learned Magistrate has considered the statements of some of the witnesses and taken cognizance against the petitioners but it

appears that he has discarded the statements of witnesses, namely, Hajari Mal, Khayali Ram, Sohan Lal, Jagroop, Jagroop Singh, Jernail Singh, Jagseer Singh, Noor Hasan, Abdul Jaffar recorded on 28.1.2003 only on this count that photo copies of the their statements have been produced. The learned Magistrate should have called the original statements for his satisfaction. It appears that learned Magistrate has not considered the evidence in true perspective. He has not given any reason why he has not agreeing with the report given by the Investigating Officer. Learned Sessions has also in cursory manner dismissed the revision petition filed by the petitioners. Looking to all the facts and circumstances of the case, since learned Magistrate has not considered the evidence nor enquired the matter in true perspective, therefore, in my considered opinion, the matter is required further enquiry by the learned Magistrate.

Accordingly, this misc. petition is allowed and the orders of both the courts below dated 21.11.2006 and 19.3.2004 are quashed and set aside. The learned Magistrate is directed to further enquire the matter and pass afresh order after hearing

both the parties in accordance with the law.

Both the parties are directed to appear before the learned Magistrate on 4.5.2007.

(KRISHAN KUMAR ACHARYA), J.

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